## Morris James LLP

Mary B. Matterer 302.888.6960 mmatterer@morrisjames.com

August 3, 2012

## BY FACSIMILE AND E-FILING

The Honorable Joel Schneider United States Magistrate Judge District of New Jersey Mitchell H. Cohen Building & U.S. Courthouse 4th & Cooper Streets, Room 1050 Camden, NJ 08101



PUBLIC - REDACTED VERSION August 9, 2012

Re:

Sciele Pharma, Inc., et al. v. Lupin Ltd., et al.,

C.A. No. 09-037 (RBK) (JS)

Shionogi Pharma, Inc., et al. v. Mylan Inc, et al., C.A. No. 10-135 (RBK) (JS)

Your Honor:

This firm along with McGuireWoods LLP represents Mylan Inc. and Mylan Pharmaceuticals Inc. (collectively, "Mylan") in the above-referenced, consolidated actions. We write in response to Shionogi's letter dated July 27, 2012 (D.I. 518), in which Shionogi raises new arguments for its position that the REDACTED

At the recent discovery hearing, Shionogi did not challenge Mylan's assertion that the REDACTED

Nor did Shionogi challenge Mylan's view of the law prior to the In re MSTG case—the only case—on which Shionogi relied in support of its position. Instead, Shionogi argued that In re MSTG broke new ground and resolved the issue before the Court. For the reasons discussed in Mylan's July 20, 2012, letter to the Court (D.I. 505), that clearly was not true. Recognizing this, Shionogi now raises an additional argument and cites new case law. We write only to address Shionogi's new argument that REDACTED

We respectfully

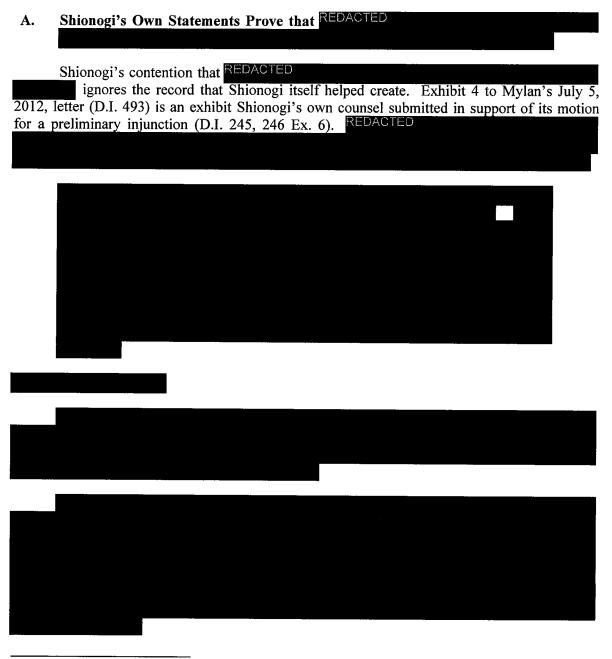
request that the Court consider this reply to allow Mylan to be heard on the new arguments Shionogi has raised.

Shionogi's new arguments are unfounded. First, Shionogi's position that REDACTED ignores the very documents-indeed, Shionogi's very own submissions—we highlighted for the Court in our July 5, 2012, letter (D.I.

Morris James LLP

The Honorable Joel Schneider August 3, 2012 Page 2

493). Furthermore, as with the *In re MSTG* decision, the cases Shionogi now cites do not strengthen Shionogi's position.



<sup>&</sup>lt;sup>1</sup> Record citations refer to Civil Action No. 9-37.

The Honorable Joel Schneider August 3, 2012 Page 3

(emphasis added).

Morris James LLP

Therefore, Shionogi's argument that REDA	CTED		
	is meritless.	As the paragraph	quoted above
makes clear, REDACTED			

## B. The New Cases Cited by Shionogi Are Unavailing.

REDACTED		
	The Federal Circu	it's comment that the
REDACTED		sheds no light on the
Federal Circuit's view on the correctness of consider		to establish royalties.
See id. Rather, the Court's comment was made in th		
court's approach to determining a reasonable royal		
Circuit reminded the district court that "this cour		
reasonable royalty calculation occurs before litigat		
results of the hypothetical negotiation." ResQNe	et.com, 594 F.3d at	872 (citing <i>Hanson</i> )

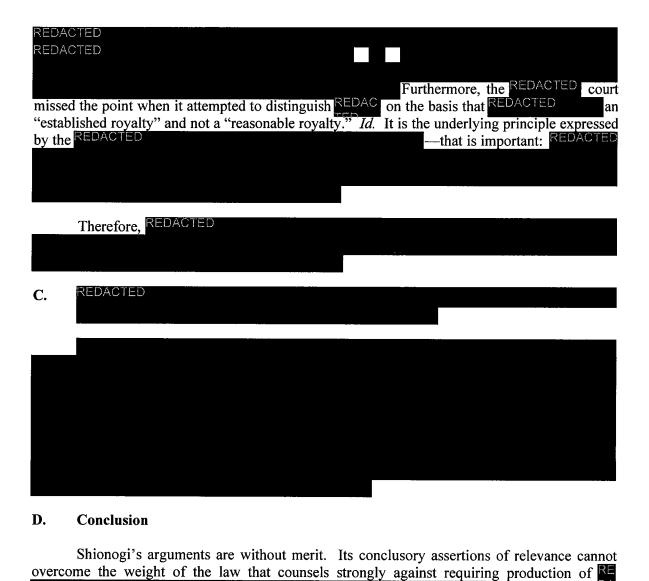
Indeed, the Federal Circuit in *In re MSTG*, *Inc.*, cited the *ResQNet.com* decision in support of its observation that REDACTED

In that case, the Federal Circuit held REDACTED

Morris James LLP

CT

The Honorable Joel Schneider August 3, 2012 Page 4



We would be happy to answer any questions the Court may have. We appreciate the Court's consideration of this matter.

The Honorable Joel Schneider August 3, 2012 Page 5 Morris James LLP

Respectfully,

/s/ Mary B. Matterer

Mary B. Matterer (#2696) mmatterer@morrisjames.com

cc: Counsel of record (via email and ecf)